



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION

KENNETH EVANS, II,  
Plaintiff,

vs.

R. EUGENE JOHNSON DETENTION  
CENTER et al.,  
Defendants.

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CIVIL ACTION NO. 9:05-2426-HFF-GCK

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ORDER

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This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that this action be dismissed without prejudice for failure to prosecute. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on April 22, 2008, but Plaintiff failed to file any objections to the Report.\* In the absence of objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that this action be **DISMISSED** without prejudice for failure to prosecute.

**IT IS SO ORDERED.**

Signed this 19th day of May, 2008, in Spartanburg, South Carolina.

s/ Henry F. Floyd  
HENRY F. FLOYD  
UNITED STATES DISTRICT JUDGE

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### **NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

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\*The Court notes that Plaintiff is likely unaware of the Report in that, on May 5, 2008, the postal service returned Plaintiff's copy of the Report marked "RETURN TO SENDER." In light of present posture of the case, however, and Plaintiff's failure to keep the Court informed of his current address, although explicitly directed to do by Order of this Court, filed September 16, 2005, the Court has no option but to dismiss the action.